

Assembly Bill No. 1171

CHAPTER 907

An act to amend Sections 188.5 and 31010 of, to add Section 188.51 to, to repeal Section 31050 of, and to add Chapter 4.6 (commencing with Section 31070) to Division 17 of, the Streets and Highways Code, relating to highways, and making an appropriation therefor.

[Approved by Governor October 14, 2001. Filed
with Secretary of State October 14, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1171, Dutra. Highways: toll bridges: funding.

(1) Existing law imposes a seismic retrofit surcharge equal to \$1 per vehicle for passage on the state-owned toll bridges in the region within the area of the jurisdiction of the Metropolitan Transportation Commission, except for vehicles that are authorized toll-free passage on those bridges. Revenue generated from the surcharge is required to be deposited in the Toll Bridge Seismic Retrofit Account in the State Transportation Fund, which is continuously appropriated without regard to fiscal years to the Department of Transportation for the purpose of funding seismic retrofit of currently listed bridges. The department is required to determine the date when (a) sufficient funds have been generated for the completion of seismic retrofit and the replacement of the San Francisco-Oakland Bay Bridge, as specified, and (b) sufficient funds have been generated to pay for any costs added under a specified provision relating to the San Francisco-Oakland Bay Bridge. The department is required to notify the Secretary of State of that date, immediately upon making that determination. These provisions are repealed on January 1, 2008, or on the date the Secretary of State receives the specified notice, whichever occurs first.

This bill would delete the repeal date described above and would instead provide a repeal date occurring when the California Transportation Commission notifies the Secretary of State that sufficient funds have been generated to meet certain obligations, as defined, and thereby would make an appropriation by extending the time during which the money in the account would be continuously appropriated. The bill would require the money in the account that is in excess of those funds needed to meet the toll commitment and other elements requiring to meet the obligations of the department's financial plan to be available to the Bay Area Toll Authority for funding certain purposes and projects that are consistent with existing law requirements.

The bill would require the department to transfer the funds annually to the authority upon receiving notification from the authority's governing board.

The bill would prohibit the increase in tolls beyond the level needed to complete the seismic retrofit and replacement of bay area bridges, as described above, unless the California Infrastructure and Economic Development Bank makes certain described findings and the Department of Finance confirms those findings.

(2) Existing law sets forth the cost estimates at \$2,620,000,000 to retrofit the state-owned toll bridges and to replace the east span of the San Francisco-Oakland Bay Bridge in accordance with a schedule.

This bill would revise that cost estimate to \$4,637,000,000 and would correspondingly revise the schedule.

(3) Existing law provides that the estimated cost of replacing the east span of the San Francisco-Oakland Bay Bridge is based on certain assumptions.

The bill would instead provide that this estimated cost is based on specific conditions, rather than assumptions.

(4) Existing law provides that it is the intent of the Legislature that specific amounts from various funds be allocated through the 2004–05 fiscal year, for the seismic retrofit or replacement of the identified state-owned toll bridges.

This bill would require the continued allocation of the funds until expended, rather than through the 2004–05 fiscal year, and would revise the amount available from the seismic retrofit surcharge, subject to certain limitations, and would include the funds necessary to meet principal obligations, as defined, of not less than \$642,000,000 from the state's share of the federal Highway Bridge Replacement and Rehabilitation Program.

The bill would revise the proportional reduction of funding formula provided under existing law, if the cost of retrofitting or replacement, or both, is less than the statutory cost estimate set forth above.

The bill would require the department, upon substantial completion of the retrofit work of the state-owned toll bridges, to submit a final report prepared by an independent accounting firm identifying the sources and use of the funds. The bill would require the report to serve as the basis for any proportional reduction in funding as described above.

The bill would provide that if the department issues federal highway grant anticipation notes to fund the retrofitting of state owned toll bridges and the replacement of the east span of the San Francisco-Oakland Bay Bridge, certain adjustments in the state transportation improvement program county share shall not apply.



The bill would authorize the department to enter into certain financial arrangements to finance or refinance the seismic retrofit project costs which would include the issuance of revenue bonds.

The bill would provide that nothing in the bill shall be construed to negatively impact any project that is programmed prior to January 1, 2002, in the state transportation improvement program.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 188.5 of the Streets and Highways Code is amended to read:

188.5. (a) The Legislature finds and declares all of the following:

(1) The department has determined that in order to provide maximum safety for the traveling public and to ensure continuous and unimpeded operation of the state's transportation network, six state-owned toll bridges are in need of a seismic safety retrofit, and one state-owned toll bridge is in need of a partial retrofit and a partial replacement.

(2) The bridges identified by the department as needing seismic retrofit are the Benicia-Martinez Bridge, the Carquinez Bridge, the Richmond-San Rafael Bridge, the San Mateo-Hayward Bridge, the San Pedro-Terminal Island Bridge (also known as the Vincent Thomas Bridge), the San Diego-Coronado Bridge, and the west span of the San Francisco-Oakland Bay Bridge. The department has also identified the east span of the San Francisco-Oakland Bay Bridge as needing to be replaced. That replacement span will be safer, stronger, longer lasting, and more cost efficient to maintain than completing a seismic retrofit for the current east span.

(3) The south span of the Carquinez Bridge is to be replaced pursuant to Regional Measure 1, as described in subdivision (b) of Section 30917.

(4) The cost estimate to retrofit the state-owned toll bridges and to replace the east span of the San Francisco-Oakland Bay Bridge is four billion six hundred thirty-seven million dollars (\$4,637,000,000), as follows:

(A) The Benicia-Martinez Bridge retrofit is one hundred ninety million dollars (\$190,000,000).

(B) The north span of the Carquinez retrofit is one hundred twenty-five million dollars (\$125,000,000).

(C) The Richmond-San Rafael Bridge retrofit is six hundred sixty-five million dollars (\$665,000,000).

(D) The San Mateo-Hayward Bridge retrofit is one hundred ninety million dollars (\$190,000,000).



(E) The San Pedro-Terminal Island Bridge retrofit is sixty-two million dollars (\$62,000,000).

(F) The San Diego-Coronado Bridge retrofit is one hundred five million dollars (\$105,000,000).

(G) The west span of the San Francisco-Oakland Bay Bridge retrofit, as a lifeline bridge, is seven hundred million dollars (\$700,000,000).

(H) Replacement of the east span of the San Francisco-Oakland Bay Bridge is two billion six hundred million dollars (\$2,600,000,000).

(b) It is the intent of the Legislature that the following amounts from the following funds shall be allocated until expended, for the seismic retrofit or replacement of state-owned toll bridges:

(1) Six hundred fifty million dollars (\$650,000,000) from the 1996 Seismic Retrofit Account in the Seismic Retrofit Bond Fund of 1996 for the seven state-owned toll bridges identified by the department as requiring seismic safety retrofit or replacement.

(2) One hundred forty million dollars (\$140,000,000) in surplus revenues generated under the Seismic Retrofit Bond Act of 1996 that are in excess of the amount actually necessary to complete Phase Two of the state's seismic retrofit program. These excess funds shall be reallocated to assist in financing seismic retrofit of the state-owned toll bridges.

(3) Fifteen million dollars (\$15,000,000) from the Vincent Thomas Toll Bridge Revenue Account.

(4) The funds necessary to meet both of the following:

(A) A principal obligation of two billion two hundred eighty-two million dollars (\$2,282,000,000) from the seismic retrofit surcharge, including any interest therefrom, imposed pursuant to Section 31010, subject to the limitation set forth in subdivision (c) and subdivision (b) of Section 31010.

(B) All costs of financing, including capitalized interest, reserves, costs of issuance, costs of credit enhancements and any other financial products necessary or desirable in connection therewith, and any other costs related to financing.

(5) Thirty-three million dollars (\$33,000,000) from the San Diego-Coronado Toll Bridge Revenue Fund.

(6) Not less than seven hundred forty-five million dollars (\$745,000,000) from the State Highway Account to be used toward the eight hundred seventy-five million dollars (\$875,000,000) state contribution, to be achieved as follows:

(A) (i) Two hundred million dollars (\$200,000,000) to be appropriated for the state-local transportation partnership program described in paragraph (7) of subdivision (d) of Section 164 for the 1998–99 fiscal year.

(ii) The remaining funds intended for that program and any program savings to be made available for toll bridge seismic retrofit.

(B) A reduction of not more than seventy-five million dollars (\$75,000,000) in the funding level specified in paragraph (4) of subdivision (d) of Section 164 for traffic system management.

(C) Three hundred million dollars (\$300,000,000) in accumulated savings by the department achieved from better efficiency and lower costs.

(7) Not more than one hundred thirty million dollars (\$130,000,000) from the Transit Capital Improvement Program funded by the Transportation Planning and Development Account in the State Transportation Fund to be used toward the eight hundred seventy-five million dollars (\$875,000,000) state contribution. If the contribution in subparagraph (A) of paragraph (6) exceeds three hundred seventy million dollars (\$370,000,000), it is the intent that the amount from the Transit Capital Improvement Program shall be reduced by an amount that is equal to that excess.

(8) (A) The funds necessary to meet principal obligations of not less than six hundred forty-two million dollars (\$642,000,000) from the state's share of the federal Highway Bridge Replacement and Rehabilitation (HBRR) Program.

(B) If the project costs exceed four billion six hundred thirty-seven million dollars (\$4,637,000,000), the department may program not more than four hundred forty-eight million dollars (\$448,000,000) in project savings or other available resources from the Interregional Transportation Improvement Plan, the State Highway Operation Protection Plan, or federal bridge funds for that purpose.

(C) None of the funds identified in subparagraph (B) may be expended for any purpose other than the conditions and design features described in paragraph (9).

(9) The estimated cost of replacing the San Francisco-Oakland Bay Bridge listed in subparagraph (H) of paragraph (4) of subdivision (a) is based on the following conditions:

(A) The new bridge shall be located north adjacent to the existing bridge and shall be the Replacement Alternative N-6 (preferred) Suspension Structure Variation, as specified in the Final Environmental Impact Statement, dated May 1, 2001, submitted by the department to the Federal Highway Administration.

(B) The main span of the bridge shall be in the form of a single tower cable suspension design and shall be the Replacement Alternative N-6 (preferred) Suspension Structure Variation, as specified in the Final Environmental Impact Statement, dated May 1, 2001, submitted by the department to the Federal Highway Administration.



(C) The roadway in each direction shall consist of five lanes, each lane will be 12 feet wide, and there shall be 10-foot shoulders as an emergency lane for public safety purposes on each side of the main-traveled way.

(c) If the actual cost of retrofit or replacement, or both retrofit and replacement, of toll bridges is less than the cost estimate of four billion six hundred thirty-seven million dollars (\$4,637,000,000), there shall be a reduction in the amount provided in paragraph (4) of subdivision (b) equal to the proportion of total funds committed to complete the projects funded from funds generated from paragraph (4) of subdivision (b) as compared to the total funds from paragraphs (6), (7), and (8) of subdivision (b), and there shall be a proportional reduction in the amount specified in paragraph (8) of subdivision (b).

(d) (1) The department shall report annually to the Legislature and the Governor as to the amount of funds used for that purpose from each source specified in subdivision (b) and submit an updated cost estimate. Upon substantial completion of the seismic retrofit work of the state-owned toll bridges, the department shall submit a final report, prepared by an independent accounting firm, identifying the sources and uses of the funds. That report shall serve as the basis for any proportional reduction in funding as specified in subdivision (c).

(2) If the department determines that the actual costs exceed the amounts identified in subparagraph (B) of paragraph (8) of subdivision (b), the department shall report to the Legislature within 90 days from the date of that determination as to the difference and the reason for the increase in costs.

(e) Notwithstanding any other provision of law, the commission shall adopt fund estimates consistent with subdivision (b) and provide flexibility so that state funds can be made available to match federal funds made available to regional transportation planning agencies.

(f) For the purposes of this section, “principal obligations” are the amount of funds generated, either in cash, obligation authority, or the proceeds of a bond or other indebtedness.

SEC. 2. Section 188.51 is added to the Streets and Highways Code, to read:

188.51. (a) If the department utilizes its authority under Chapter 4 (commencing with Section 14550) of Part 5.3 of Division 3 of the Government Code to issue federal highway grant anticipation notes (GARVEE Bonds) from the state share of federal obligation authority to fund the projects identified in subdivision (a) of Section 188.5, Section 14553.6 of the Government Code shall not apply.



(b) State expenditures for the purposes of subdivision (a) shall not exceed 5 percent of the annual amount of federal obligation authority received by the state for a period determined by the department.

SEC. 3. Section 31010 of the Streets and Highways Code is amended to read:

31010. (a) There is hereby imposed a seismic retrofit surcharge equal to one dollar (\$1) per vehicle for passage on the bay area bridges, except for vehicles that are authorized toll-free passage on these bridges.

(b) Funds generated by subdivision (a) may not be used to repay nontoll revenues committed to fund projects identified in paragraph (2) of subdivision (a) of Section 188.5. Following the date of the submission of the final report required in subdivision (d) of Section 188.5, funds generated pursuant to subdivision (a) that are in excess of those needed to meet the toll commitment as specified by paragraph (4) of subdivision (b) of Section 188.5, including annual debt service payments, if any, required to support the commitment, and other elements required to meet the obligations of the department's financing plan, shall be available to the authority for funding, consistent with Sections 30913 and 30914, the purposes and projects described in those sections. The department shall transfer to the authority on an annual basis the funds made available to the authority under this subdivision upon receiving notification from the authority that the governing board of the authority has passed a resolution, by majority vote, requesting that transfer.

(c) There shall be no increase in tolls beyond the level identified in subdivision (a) for the purposes identified in paragraph (4) of subdivision (a) of Section 188.5, except that the department shall have the authority to increase the seismic retrofit surcharge for debt service purposes only if the bank finds and the Department of Finance confirms that both of the following apply:

(1) Extraordinary circumstances exist that jeopardize the payment of debt service for which toll revenues are authorized, and all other financial resources for meeting toll commitments have been exhausted.

(2) Bonds issued under Chapter 4.3 (commencing with Section 30950) shall not be impaired solely by action taken under this section, as evidenced by confirmation of the then existing ratings on those bonds, by the rating agencies then rating the bonds.

(d) The department shall extend the term of the financing plan developed under Section 31071, for the purposes of funding the projects described in Sections 30913 and 30914, for a period of not more than 30 years commencing on January 1, 2008, if both of the following conditions apply:



(1) The authority submits a request for the extension to the department on or before October 15, 2001, or on a later date requested by the authority and approved by the director.

(2) The Director of Transportation determines that the extension would satisfy the financial requirements of the federal Department of Transportation.

(e) This section shall remain in effect only until the date that the California Transportation Commission notifies the Secretary of State that sufficient funds have been generated to meet the obligations identified in paragraph (4) of subdivision (b) of Section 188.5, and repayment of any outstanding debt secured by tolls, and as of that date is repealed. The California Transportation Commission shall provide the notice described in this subdivision upon making the determination set forth in this subdivision.

SEC. 4. Section 31050 of the Streets and Highways Code is repealed.

SEC. 5. Chapter 4.6 (commencing with Section 31070) is added to Division 17 of the Streets and Highways Code, to read:

CHAPTER 4.6. STATE-OWNED TOLL BRIDGE SEISMIC RETROFIT
FINANCING ACT OF 2001

31070. The Legislature hereby finds and declares all of the following:

(a) Following the 1989 Loma Prieta earthquake, legislation was enacted to make seismic safety a top transportation priority in this state. In the wake of the Northridge earthquake of 1994, when nine major freeway bridges were destroyed and 11 major highways were closed, seismic retrofit of the state's bridges and highways again became the number one priority on the state's transportation agenda.

(b) In 1996, voters approved Proposition 192, a two billion dollar (\$2,000,000,000) bond measure for state highway seismic retrofit. This funding measure includes the costs of retrofitting seven state-owned toll bridges, five in the San Francisco-Oakland Bay area and two in southern California. Replacement costs for the eastern span of the San Francisco-Oakland Bay Bridge were factored in as well.

(c) Subsequent to the adoption of Proposition 192, new cost estimates by the department increase the toll bridge retrofit program from six hundred fifty million dollars (\$650,000,000) to two billion six hundred million dollars (\$2,600,000,000). To address this increase, the Legislature enacted legislation in 1997, establishing the compromise of a 50/50 funding agreement between the state and local toll payers to



finance all state-owned bridges in the San Francisco-Oakland Bay area, Los Angeles, and San Diego.

(d) It is the further intent of the Legislature that the department address the funding deficiency through a combination of financing options. These options may or may not include obtaining a loan under the federal Transportation Infrastructure Finance and Innovation Act of 1998 (P.L. 105-178), a program authorized by the Congress of the United States in 1998 to provide credit assistance for large transportation projects.

(e) Other financing options include revenue bonds and commercial paper should be issued under the authority of the California Infrastructure and Economic Development Financing Bank, the California Transportation Commission, or other, appropriate entity.

31070.5. For the purposes of this chapter, the following terms have the following meanings, unless the context requires otherwise:

(a) “Authority” means the Bay Area Toll Authority established under Section 30950.

(b) “Account” means the Toll Bridge Seismic Retrofit Account established in the State Transportation Fund under Section 188.12.

(c) “Bank” means the California Infrastructure and Economic Development Bank established under Section 63021 of the Government Code.

(d) “Bay area bridges” means the state-owned toll bridges in the region within the area of the jurisdiction of the Metropolitan Transportation Commission.

(e) “Bonds” has the meaning defined in subdivision (e) of Section 63010 of the Government Code.

(f) “Department” means the Department of Transportation.

(g) “TIFIA” means the federal Transportation Infrastructure Finance and Innovation Act of 1998 (P.L. 105-178).

(h) “Toll surcharge” means the seismic retrofit surcharge imposed under Section 31010.

31070.7. The department has full and sole responsibility for completion of all seismic retrofit projects on the bay area bridges.

31071. (a) The department may enter into financing agreements with the bank for the purpose of borrowing funds to finance or refinance the seismic retrofit project costs identified in paragraph (4) of subdivision (a) of Section 188.5. The bank may issue bonds for this purpose, pursuant to the authority granted to it under Chapter 5 (commencing with Section 63070) of Chapter 2 of Division 1 of Title 6.7 of the Government Code, and deposit the proceeds from the bonds into the account. The amount of borrowing may be increased to fund necessary reserves, capitalized interest, interim bonds, including, but



not limited to, commercial paper, costs of issuance, and administrative, financial legal and incidental services related to the bonds. The department shall pursue the most cost-effective and efficient financing plan for the bridge work identified in paragraph (4) of subdivision (a) of Section 188.5.

(b) To the extent provided in the governing documents, each of the bonds issued under this section shall be payable from, and secured by, all or a portion of the toll surcharge revenue in the account and the assets in that account.

(c) Prior to the issuance of bonds payable from the toll surcharge, the bank shall confirm that bonds issued under Chapter 4.3 (commencing with Section 30950) shall not be impaired solely by action taken under this section, as evidenced by confirmation of the then existing ratings on these bonds, by the rating agencies then rating the bonds.

31071.3. Notwithstanding any other provision of law, during the construction period, all revenues generated from the toll surcharge shall be available to the department only for the construction and financing purposes of the toll bridge seismic retrofit program.

31071.5. (a) Bonds issued under this chapter may not be deemed to constitute a debt or liability of the state or of any political subdivision thereof, other than the bank, or a pledge of the faith and credit of the state or of any political subdivision thereof, but shall be payable solely from the account, and the assets of the account, and the security provided by the account. All bonds issued under this chapter shall contain on the face of the bonds a statement to this effect.

(b) Notwithstanding any other provision of law, Article 3 (commencing with Section 63040) of, Article 4 (commencing with 63042) of, and Article 5 (commencing with Section 63043) of Chapter 2 of Division 1 of Title 6.7 of the Government Code do not apply to any financing provided by the bank to, or at the request of, the department in connection with the account.

31072. Any federal funds received by the department as a direct loan or line of credit under TIFIA are hereby appropriated to the department for transfer to the account for the purposes of that account.

31073. The department may make the loans and transfers authorized under Section 14556.7 of the Government Code and Section 188.14 to provide adequate cash flow for obligation service requirements resulting from the financing authority provided under Sections 31071 and 31072.

SEC. 6. This act shall not be construed to negatively impact any project that is programmed prior to January 1, 2002, in the state transportation improvement program.

